

REMARKS

Applicants respectfully traverse the restriction of claims 1-67 as being drawn to eight distinct inventions for the reasons provided below. However, in order to be fully responsive to the Office Communication, Applicants hereby elect with traverse Group IV, claims 1-22, drawn to a method of reducing or inhibiting proliferation of cells of a digestive tract tumor using an antagonist, wherein the antagonist is a small organic molecule. Claims 1-7, 10-18, 21, and 22 encompass the elected group.

In support of this Restriction Requirement, the Examiner alleged that the special technical feature recited in claim 1 (i.e., the abnormal Hedgehog activity that causes tumor cell proliferation, being treated with a Hedgehog antagonist) is disclosed by Berman et al. (*Nature* 425:846, 2003; hereinafter “Berman”). The Examiner therefore concludes that the inventions as listed in Groups I-VIII do not relate to a single general inventive concept because they lack a corresponding special technical feature. Applicants respectfully disagree.

Applicants respectfully submit that Berman is not available as prior art against the present claims. Indeed, a review of Berman reveals a publication date of October 23, 2003, some 3 months *after* the July 15, 2003 priority date of the present application. Thus, Berman cannot destroy the special technical feature linking the present claims.

Accordingly, Applicants submit that the claims are indeed linked by a single general inventive concept and thus, the restriction of the claims into 8 groups is improper. Rather, Applicants submit that, at a minimum, the claims of Groups I-III and V should be examined together with the elected Group IV in the present application. Indeed, the claims of these groups are all directed to methods of reducing or inhibiting proliferation of cells of a digestive tract tumor, and as such, consist of the same method steps. Further, Applicants submit that given that the claims of these groups are linked by a general inventive concept, the Examiner has no basis for restricting the claims into separate groups based on class of antagonist. Indeed, Applicants note that such a restriction was not made in a related case (US Patent Application Serial No. 10/576,149).

In re Application of:

Beachy et al.

Application No.: 10/564,580

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PATENT

Attorney Docket No.: JHU2010-1

Based on the foregoing, Applicants request reconsideration and withdrawal of the Restriction Requirement as applied to Groups I-V.

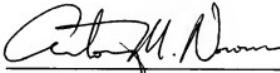
The Examiner is invited to contact Applicants' undersigned representative if there are any questions relating to this application.

No fee is believed to be due in connection with this submission. However, the Commissioner is hereby authorized to charge any other fees associated with the filing submitted herewith, or credit any overpayments to Deposit Account No. 07-1896 referencing the above-identified attorney docket number.

Respectfully submitted,

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